

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 22.07.2019

CORAM:

WEB COPY

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM****W.P. (MD) No.8785 of 2014****and****M.P. (MD) No.1 of 2014****and****M.P (MD) No.1 of 2015**

Muthuraj

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Secretary,
Handlooms, Handicrafts, Textiles
and Khadi Department,
Fort St. George, Chennai-9.

2.The Director,
Department of Sericulture,
Annaimeedu, Salem.

3.The Assistant Director,
Sericulture Department,
Nannagaram, Tenkasi,
Tirunelveli District.

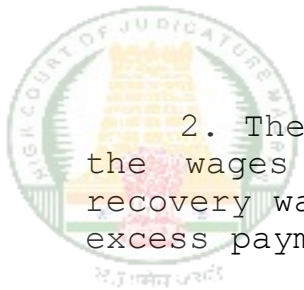
... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the third respondent in Se.Mu.No.4102/Aa/2011 dated 24.03.2014 and quash the same and consequently direct the third respondent to return the amount already recovered by the respondent from the petitioner's salary.

For Petitioner : Mr.S.Muniyandi
For Respondents : Mr.M.Jeyakumar,
Additional Government Pleader

ORDER

<https://hcservices.courts.gov.in/hcservices/> The writ petition has been filed challenging the order of recovery, dated 24.03.2014.



2. The writ petitioner was appointed as daily wage employee and the wages were periodically increased. The impugned order of recovery was issued in proceedings, dated 24.03.2014 stating that an excess payment was made to the writ petitioner.

3. The learned counsel appearing on behalf of the writ petitioner states that the impugned order of recovery has been issued without even issuing any show cause notice and opportunity to the writ petitioner. Thus, the same is in violation of principles of natural justice.

4. The learned Additional Government Pleader appearing on behalf of the respondents states that as regards prior show cause notice before effecting recovery of excess payment, the third respondent has instructed the unit officer i.e., Farm or silk reeling unit or Grainage incharge under whom the petitioner is directly working to inform about the excess payment and recovery of the same from each and every workers and to get their consent for recovery in easy monthly instalments.

5. Though it is stated that the respondents have orally informed, there is no record to show that the show cause notice was issued seeking explanations from the writ petitioner or the writ petitioner has given a consent letter for such recovery. In the absence of any such records, this Court cannot come to the conclusion that merely based on the fact that the officials have orally informed to the writ petitioner. Such oral information now stated would not fulfill the requirements of the principles of natural justice. In the absence of any undertaking from the employee or the written show-cause notice providing an opportunity, the Court cannot come to the conclusion that the officials have orally informed the aggrieved employee. Any order affecting the salary of the employee should be passed only after providing an opportunity to defend his case. This being the principles to be followed, this Court is of the considered opinion that the present writ petition is a fit case for remanding the matter back to the authorities for re-consideration.

6. Accordingly, the impugned order passed by the third respondent in Se.Mu.No.4102/Aa/2011, dated 24.03.2014 is quashed. The respondents are directed to issue show-cause notice to the writ petitioner within a period of four weeks from the date of receipt of a copy of this order. On receipt of the said show-cause notice, the petitioner is permitted to submit his explanations/objections, if any, along with the documents, within a period of three weeks. On receipt of the explanations, the respondents are directed to consider the materials available on records as well as the explanations, if any, submitted by the writ petitioner and pass final orders within a period of six weeks there from.



7. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

/ True Copy /

Sub Assistant Registrar (CS-)

To

1. The Secretary,
Handlooms, Handicrafts, Textiles
and Khadi Department,
Fort St. George, Chennai-9.

2. The Director,
Department of Sericulture,
Annaimeadu, Salem.

3. The Assistant Director,
Sericulture Department,
Nannagaram, Tenkasi,
Tirunelveli District.

+1 CC to M/s. SPL GP (SR-76899[F] dated 23/07/2019)

+1 CC to M/s. S. MUNIYANDI, Advocate (SR-77335[F] dated 24/07/2019)

W.P. (MD) No. 8785 of 2014

22.07.2019

Am

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